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October 9, 2015

**VIA ECF**

Honorable Lois H. Goodman, U.S.M.J.  
United State District Court  
Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street, Room 7050  
Trenton, NJ 08608

Re: *In re Ductile Iron Piping Fittings* ("DIPF")  
*Direct Purchaser Antitrust Litigation*  
Civil Case No. 12-711 (AET) (LHG)

Dear Judge Goodman:

Pursuant to the Court's request during the September 16, 2015 conference call, the parties in the Direct Purchaser Action (Civ. No. 12-711), the Indirect Purchaser Action (Civ. No. 12-169), and the Indiana Action (Civ. No. 12-6667) submit this joint report on outstanding discovery disputes. For the Court's convenience, we attach the parties' October 3, 2014 joint letter to the Court (ECF No. 306), which sets forth the disputes that were pending before the Court at the time the discovery stay was issued on October 15, 2014.

The DPPs and McWane have now reached an agreement on the disputes relevant to Items 1 through 3 of the October 3 Joint Letter and no longer require the Court's intervention.

Both IPPs and Indiana and McWane have now reached agreement on the dispute relevant to Item 6 of the Joint Letter and no longer require the Court's intervention.

Indiana and McWane are continuing to meet and confer regarding the disputes identified in Items 4 and 5 of the Joint Letter and will advise the Court by October 23, 2015 if the Court's intervention is required.

The IPPs and McWane are continuing to meet and confer regarding the dispute identified in Item 5 of the Joint Letter and will advise the Court by October 23, 2015 if the Court's intervention is required.

Respectfully yours,

  
Elana Katcher



**Attachment**



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October 3, 2014

**VIA ECF AND HAND DELIVERY**

Honorable Lois H. Goodman, U.S.M.J.  
United State District Court  
Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street, Room 7050  
Trenton, NJ 08608

Re: *In re Ductile Iron Piping Fittings* ("DIPF")  
*Direct Purchaser Antitrust Litigation*  
Civil Case No. 12-711 (AET) (LHG)

Dear Judge Goodman:

As you directed during the September 4, 2014 conference, the parties in the Direct Purchaser Action (Civ. No. 12-711), the Indirect Purchaser Action (Civ. No. 12-169), and the Indiana Action (Civ. No. 12-6667), submit this joint letter to propose an agenda for the upcoming conference with the Court scheduled for October 8, 2014 at 2:00 p.m. EDT. This letter also lists the submissions that the parties request that the Court review prior to the hearing as related to the various agenda items.

**1. Defendants' Motion To Compel Direct Purchaser Plaintiffs To Produce Documents.**

Defendants seek an order compelling Direct Purchaser Plaintiffs to produce documents requested by Defendants' document requests 47; 26-27; 13, 34, 39-41, 43, 45-46; and 63-65, 79. In connection with that application the parties request that the Court review the following, all of which were filed in Civ. No. 12-711:

- (a) Letter brief dated July 24, 2014 submitted by counsel for Star on behalf of all Defendants (ECF No. 259);
- (b) Direct Purchaser Plaintiffs' letter brief in opposition dated August 1, 2014 (ECF No. 266);
- (c) Reply letter brief dated August 20, 2014 submitted by counsel for SIGMA on behalf of SIGMA and McWane (ECF No. 278);





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- (d) Reply letter brief dated August 20, 2014 submitted by counsel for Star on behalf of all Defendants (as to the document requests) (ECF No. 279).

**2. Direct Purchaser Plaintiffs' Motion To Quash Subpoenas Seeking Downstream Discovery.**

Direct Purchaser Plaintiffs seek an order quashing subpoenas *deuces tecum* issued by Star in the Indirect Purchaser Action, seeking "downstream discovery" from the Direct Purchaser Plaintiffs. In connection with that application, the parties request that the Court review the following, all of which were filed in Civ. No. 12-711:

- (a) Direct Purchaser Plaintiffs' letter brief dated September 2, 2014 (ECF No. 283)
- (b) Responsive letter brief dated September 11, 2014 submitted by counsel for Star (ECF No. 291);
- (c) Direct Purchaser Plaintiffs' reply letter brief dated September 15, 2014 (ECF No. 293).

**3. Defendants' And Direct Purchaser Plaintiffs' Motions To Compel/Quash Rule 30(b)(6) Notices Concerning "Downstream Discovery".**

Defendants seek an order compelling Direct Purchaser Plaintiffs to produce a witness pursuant to Rule 30(b)(6) to testify concerning "downstream discovery," and Direct Purchaser Plaintiffs seek an order striking that topic from the notice. In connection with those applications, the parties request that the Court review the following, all of which were filed in Civ. No. 12-711:

- (a) Letter brief dated September 19, 2014 from counsel for Star on behalf of all Defendants concerning objections by Direct Purchaser Plaintiffs to the Rule 30(b)(6) topic seeking "downstream discovery" (ECF No. 295);
- (b) Direct Purchaser Plaintiffs' letter brief in opposition and seeking an order prohibiting inquiry into downstream sales or financial information (ECF No. 296).

**4. Defendants' Motion To Compel Indiana To Produce Documents From Its Political Subdivisions.**

Defendants seek an order compelling Indiana to produce documents from its political subdivisions. In connection with that application, the parties request that the Court review the following, all of which were filed in Civ. No. 12-6667:

- (a) Defendants' letter brief dated July 30, 2014 seeking an order compelling Indiana to produce documents from its political subdivisions (ECF No. 48);
- (b) Indiana's letter brief in response, dated August 4, 2014 (ECF No. 52);



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- (c) McWane's and SIGMA's reply letter brief, dated August 20, 2014 (ECF No. 60);
- (d) Indiana's surreply letter brief, dated August 25, 2014 (ECF No. 62);
- (e) McWane's and SIGMA's letter brief dated August 28, 2014 in response to Indiana's August 25, 2014 surreply (ECF No. 63);
- (f) McWane's and SIGMA's supplemental letter brief dated September 19, 2014 (ECF No. 67);
- (g) Indiana's supplemental letter brief with exhibits dated September 19, 2014 (ECF No. 68);
- (h) McWane's and SIGMA's request for leave to file a responsive letter brief and responsive letter brief, both dated October 1, 2014 (ECF Nos. 76 and 76.1) ; and
- (i) Indiana's response dated October 3, 2014, to McWane's and SIGMA's supplemental filings of September 19 and October 1, 2014 (ECF No. 78).

**5. McWane Transactional Data Issue.**

Indirect Purchaser Plaintiffs and Indiana have a dispute with McWane relating to its transactional data.

**6. Depositions.**

Counsel will orally report concerning depositions of parties and non-parties. In addition, Defendants seek the Court's guidance on the following issues:

- Defendants request that Indirect Purchaser Plaintiffs' counsel provide available dates for deposition for named Plaintiffs City of Hallandale Beach, Woodridge, or Wayne County by October 10, 2014. (Civ. No. 12-169, ECF No. 199).
- Defendants request that Indiana provide available dates for deposition of the Rule 30(b)(6) deposition of Indiana by October 10, 2014, and limit its instructions to its witness not to answer questions at deposition to those allowed by Rule 30(c)(2). (Civ. No. 12-169, ECF No. 199).

Respectfully yours,

A handwritten signature in black ink, appearing to read 'R. J. Kilsheimer', written over a horizontal line.

Richard J. Kilsheimer

RJK/sf

cc: All counsel (by email)